

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ERIC DWAIN AYERS,

Plaintiff,

vs.

No. CV 18-01015 MV/GJF

MAXWELL H. PINES, and
METROPOLITAN DETENTION CENTER,

Defendants.

MEMORANDUM OPINION AND FINAL ORDER OF DISMISSAL

THIS MATTER is before the Court under 28 U.S.C. § 1915A on the Civil Rights Complaint Pursuant to 42 U.S.C. § 1983 filed by Plaintiff Eric Dwain Ayers (Doc. 1). On June 17, 2020, the Court dismissed the Complaint for failure to state a claim and granted Plaintiff leave to file an amended complaint within 30 days. (Doc. 19). More than 30 days has elapsed, and Plaintiff has not filed an amended complaint or otherwise communicated with the Court.

Plaintiff filed his Civil Rights Complaint under 42 U.S.C. § 1983. (Doc. 1). The Complaint names as Defendants Assistant Public Defender Maxwell H. Pines and the Metropolitan Detention Center (“MDC”). (Doc. 1 at 1-2). Plaintiff alleges that his fair trial and due process rights were violated when Pines discussed his criminal case in front of other inmates and MDC did nothing to stop Pines. (Doc. 1 at 3-4). In his prayer for relief, Ayers asks that his conviction be overturned and that he be awarded \$500,000 against each Defendant in “their professional states” and \$50,000 against each in “their personal states.” (Doc 1 at 5).

In its June 17, 2020 Opinion, the Court concluded that, because the allegations of the Complaint fail to state a claim for relief against either Pines or MDC, and because all of Ayers claims are barred by *Heck v. Humphry*, 512 U.S. 477, 487 (1994), the Complaint is factually

insufficient and fails to state any claim for § 1983 relief. The Court dismissed the Complaint and granted Plaintiff the opportunity to file an amended complaint to remedy the deficiencies in his pleading.

Plaintiff, however, has not filed an amended complaint and has not communicated with the Court since entry of the June 17, 2020 Opinion. Therefore, the Court will dismiss the Complaint with prejudice for failure to state a claim and will enter judgment.

IT IS ORDERED that the Civil Rights Complaint Under 42 U.S.C. § 1983 filed by Plaintiff Eric Dwain Ayers (Doc. 1) is **DISMISSED with prejudice** for failure to state a claim for relief.


UNITED STATES DISTRICT JUDGE